

Incumbents cheer Ensign's reform bill

By Carol Wilson

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Incumbent telephone companies lined up quickly to applaud Sen. John Ensign's introduction of telecom reform legislation this morning. Ensign (R-Nev.), chairman of the Commerce Committee's Technology, Innovation and Competitiveness Subcommittee, unveiled his Broadband Investment and Consumer Choice Act of 2005 in the Senate Press Gallery. The measure, immediately being called BICCA, is co-sponsored by Sen. John McCain (R-Ariz.).

In general, the bill would move the U.S. away from government regulation of all but basic services and more toward market-driven rules, eliminating local franchises for video services in the process. It would also require municipalities to allow "non-government entities" to bid on building their community networks, and to give preference to those bids.

"The Ensign proposal would bring telecommunications law up to date so that consumers can make their own decisions in the marketplace free of the heavy hand of government," said Herschel Abbott, BellSouth vice president Governmental Affairs, in a prepared statement. "When enacted, this bill will enhance the deployment of broadband, bring more jobs and investment. It will speed the deployment of competitive video services and provide, at last, vibrant competition in video. Technology will flourish and consumers will be the winners."

Tim McKone, senior vice president-federal relations at SBC, said the legislation "catches up with today's marketplace realities, so that consumers can fully enjoy the benefits of meaningful competitive choice in all communications services, including video."

Economist John Rutledge, long a critic of federal regulation for having dampened technology investment in the U.S., said BICCA is "the answer to outsourcing of U.S. jobs abroad. If passed, this will trigger massive--and much needed--capital spending on fiber optics and high-speed networks, giving American workers the tools they need to compete with China and India. In addition to clearing out the regulatory underbrush, this legislation could add as many as 200,000 jobs to the American work force and generate upwards of \$600 billion of GDP, resulting in higher productivity and lower inflation and interest rates over the course of the next five years."

BICCA would create sweeping changes by eliminating regulation of communications services, including any federal, state and local government regulation of "the rates, terms, price or quality of communications services." It would eliminate requirements that facilities-based providers open their networks to others and prevent regulation of the rates, terms prices or quality of any voluntary resale. And it prevents states from imposing requirements for interconnection or intercarrier compensation.

BICCA also eliminates the need for local video franchises, a move much sought by the Bell companies as they begin to offer video over both fiber optic and cable networks. States can require video service providers to pay "reasonable fees" to local governments--these would replace today's franchise fees.

It does require incumbents to make their copper loops available for unbundling, at commercial rates and terms, and gives the Federal Communications Commission the right to resolve disputes over those facilities. And it states that incumbents should make central office collocation available as part of that unbundling of copper loops.

All other forms of resale are not obligatory. The unbundling of copper loops and narrowband services would expire in 2011, unless further action is taken.

The measure sets out to tear down what it calls "silos of regulation" that exist today despite the fact that technology

is giving consumers more choices in voice, data and video services. These regulatory vestiges create a chilling effect on investment and contribute to the U.S.'s slipping position in broadband penetration among developed nations, according to Ensign and McCain. They propose market-driven, rather than government-managed, competition and particularly target the "patchwork quilt" of state and local legislation that hampers service providers.

It does build in consumer protections for basic telephone service, freezing those rates until 2010 and requiring annual adjustments after that to remain tied to the Consumer Price Index. And BICCA prohibits content-blocking of broadband services, and supports consumer access to competing voice-over-IP via broadband access.

According to Washington sources, Ensign acted with the blessing of Rep Ted Stevens (R-AL), the chairman of the Senate Commerce Committee and the man still expected to lead the charge to get telecom reform in place this year. One of the other issues taking up Stevens' time right now is universal service reform, which isn't addressed in the Ensign bill.

In his prepared statement applauding Ensign's effort, Walter B. McCormick, Jr., president and CEO of USTelecom, said he expected that effort to go forward.

"Of course, there are additional items we would like to see included in any final legislation that reaches the President's desk," he said. "We especially look forward to working with Chairman Stevens to advance a stable future for universal service, and its vital work connecting the country and linking our schools and libraries to the Internet. We look forward to working with Senator Ensign, his cosponsor, Senator McCain, as well as Chairman Stevens and all members of Congress to advance comprehensive, even-handed reform that can restore U.S. information leadership and enhance so many aspects of our quality of life."